

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION

SHIRLEY RADABAUGH,

Plaintiff,

v.

CLAY TURNER REALTY GROUP, LLC,

Defendant.

\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*  
\*

CV 120-058

---

O R D E R

---

On June 16, 2021, the Court granted Plaintiff's partial motion for summary judgment and ordered her to make a damages election pursuant to 17 U.S.C. § 504. (Doc. 35.) Plaintiff filed a declaration on July 7, 2021, in which she elected an award of statutory damages under subsection (c) of the aforementioned statute. (Doc. 36.)

Subject to subsection (c)(2), 17 U.S.C. § 504(c)(1) provides that statutory damages awarded for copyright infringement must be no less than \$750 and no more than \$30,000 "as the court considers just." The Court's discretion within these limits is wide. Cable/Home Commc'n Corp. v. Network Prods. Inc., 902 F.2d 829, 852 (11th Cir. 1990). But, "the district court should consider both the willfulness of the defendant's conduct and the deterrent value of the sanction imposed." Id.



In her declaration, Plaintiff requests damages of \$11,575. She arrives at this number by quintupling what she estimates the licensing fee she could have charged for her photograph of the Aiken Train Depot to be: \$2,315.<sup>1</sup> (Doc. 36, ¶¶ 10-12.) She notes that there is no licensing fee history for her Depot Photograph. (Id. ¶ 10.)

The Court finds an award of \$1,200 just in this case. No evidence suggests that Defendant intentionally infringed on Plaintiff's trademark - it hired a third-party web developer that used Plaintiff's photograph on its website. In awarding this amount, the Court also considered Defendant's industry and market; Defendant is a realty group located in Lincolnton, Georgia that offers properties in the Central Savannah River Area. Finally, the award of \$1,200 should serve to deter businesses from failing to check whether their third-party web developer used a copyrighted image without permission.

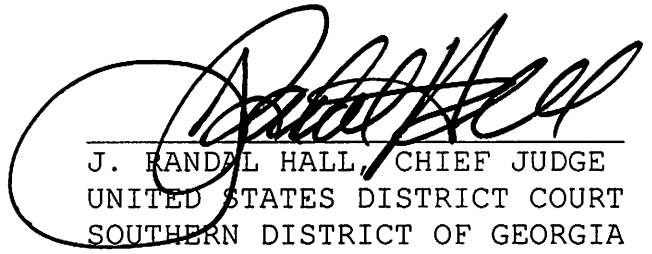
---

<sup>1</sup> Plaintiff's source for this number is a fee quote from a popular image licensing website, gettyimages.com. Plaintiff includes a quote for an image of a train station in Vermont, with the quoted use of "Advertising - Print, display and TV" and the industry of "Travel/Tourism." Defendant responds with quotes ranging from \$49 to \$479 for the same image when the use parameters are changed to better match the facts of this case. For example, the industry "Property/Real Estate" is a better match than "Travel/Toursim."



Upon the foregoing and in accordance with the Order granting summary judgment for Plaintiff (Doc. 35.), **IT IS HEREBY ORDERED** that judgment be entered in the amount of \$1,200 for Plaintiff.

**ORDER ENTERED** at Augusta, Georgia this 3<sup>rd</sup> day of August, 2021.



J. RANDAL HALL, CHIEF JUDGE  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA